



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

Hon. E. L. Hinson, Jr.
County Auditor
Polk County
Livingston, Texas

Dear Sir:

Opinion No. 0-6393

Re: Is a truck used and operated exclusively by the Texas State Guard entitled to be registered with exempt registration?

We have received and carefully considered your request for an opinion on the above matter, said request being as follows:

"I would like for an Opinion on the following questions: "Company D, 44th Bn, Texas State Guard of Livingston, Texas, owns and operates a 1942 Chevrolet panel truck exclusively for the Texas State Guard of Livingston, Texas, and is the property of and used exclusively in the service of the Texas State Guard of Livingston, Texas. Are they entitled to register the above vehicle with exempt registration?"

Article 6675a-3 of Vernon's Annotated Civil Statutes, is, in part, as follows:

"... Owners of motor vehicles, trailers and semi-trailers, which are the property of, and used exclusively in the service of the United States Government, the State of Texas, or any County, City or School District thereof, shall apply annually to register all such vehicles, but shall not be required to pay the registration fees herein prescribed, provided that affidavit is made at the time of registration by a person who has the proper authority that such vehicles are the property of and used exclusively in the service of the United States Government, the State of Texas, or County or City or School District thereof, as the case may be"

Article 6675a-3aa of said Statutes, is, in part, as follows:

"Before the delivery of license plates to anyone engaged exclusively in the service of and operating vehicles which are the property of the United States Government, or the State of Texas, or any counties, or cities thereof, such application shall have the approval of the State Highway Department before said plates are issued to any such applicant, and if it appears that said vehicle was transferred to any such agency for the sole purpose of evading the payment of registration fees, or that the same was not made in good faith, such plates shall not be issued. If, after the issuance of such, said vehicles cease to be, or are found to not be the property of such agencies, then such license fee receipt may be revoked, said plates may be recalled, and taken into possession by the State Highway Department. . . ."

Article 5891a, Section 1 (a) of said Statute, is, in part, as follows:

"Whenever any part of the National Guard of this State is in active Federal service, the Governor is hereby authorized to organize and maintain within this State during such period, under such regulations as the Secretary of War of the United States may prescribe for their organization, standards of training, instruction and discipline, such military forces as the Governor may deem necessary to defend this State."

Article 5891a, Sec. 1(b), is, in part, as follows:

"Such forces shall be a part of the active militia and a component of the Military Forces of Texas and shall be additional to and distinct from the National Guard and shall be known as the Texas State Guard. . . ."

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Article 5765 of said Statutes, reads, in part, as follows:

"The militia of this State shall be divided into two (2) classes, the active and reserve militia. The active militia shall consist of organized and uniformed military forces of this State which shall be known as the Texas National Guard or the Texas State Guard as the case may be;"

Article 5784 of said Statutes, reads as follows:

"Whenever any troop, battery, company, signal corps or band is mustered into the active militia of this State by the authority of the Governor, such troop, battery, company, signal corps or band shall, from the date of such muster in, be deemed and be held in law a body corporate and politic, with power under its corporate name to take, purchase, own in fee simple, hold, transfer, mortgage, pledge and convey real or personal property to an amount in value, at the time of its acquisition, of two hundred thousand dollars (provided that the natural enhancement in value of any property properly acquired by any such company shall not effect the right of such company to hold or otherwise handle such property), and with like power under its corporate name to sue and be sued, plead and be impleaded, and to prosecute and defend in the courts of this State or elsewhere; to have and use a common seal of such device as it may adopt; to ordain, establish, alter or amend by-laws for the government and regulation of the company affairs not inconsistent with the Constitution and laws of this State and of the United States, and the orders and regulations of the Governor; and generally to do and perform any and all things necessary and proper to be done in carrying out and perfecting the purpose of its organization, of which the officers, and in case of a band, the non-commissioned officers, shall be directors, the senior the president."

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It is common knowledge that the National Guard of this State is in active Federal service; therefore, the Governor is authorized under the above quoted statutes, to organize and maintain within this State the Texas State Guard during the period the National Guard is so engaged. Accordingly, under the facts stated by you and as authorized by the statutes hereinabove set out, your question is answered in the affirmative, and you are advised that the vehicle referred to is entitled to be registered without the registration fees thereon being paid upon compliance with the provisions of Articles 6675a-3 and 6675a-3aa.

Trusting that this satisfactorily answers your inquiry, we remain

Very truly yours,

ATTORNEY GENERAL OF TEXAS

Shover Sullivan
By

Geo. W. Bassett
Geo. W. Bassett
Assistant

JWB:rt

